

Members

Rep. William Crawford, Chairperson
Rep. John Aguilera
Rep. Lawrence Buell
Sen. Lawrence Borst
Sen. Lindel Hume
Sandra Bickel, Advisor



COMMISSION ON STATE TAX AND FINANCING POLICY

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MEETING MINUTES¹

Meeting Date: August 30, 2004
Meeting Time: 2:00 P.M.
Meeting Place: State House, 200 W. Washington St.,
Room 404
Meeting City: Indianapolis, Indiana
Meeting Number: 2

Members Present: Rep. William Crawford, Chairperson; Rep. John Aguilera; Rep. Lawrence Buell; Sen. Lawrence Borst; Sen. Lindel Hume; Sandra Bickel, Advisor.

Members Absent: None.

Representative William Crawford, Chairperson, called the second meeting of the Commission on State Tax and Financing Policy to order at 2:05 p.m. The agenda for the meeting focused on charity gaming and horse racing.

Charity Gaming

Attorney Ross Hooten, Legislative Services Agency, reviewed the charity gaming legislation authored by members of the General Assembly in the 2003 and 2004 legislative sessions.

Mr. Larry McKee, Deputy Commissioner of the Indiana Department of State Revenue, briefly reviewed the history of charity gaming in Indiana under the current law enacted in 1992. Mr.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

McKee also presented the Department's preliminary compilation of the financial data reported by the organizations engaged in charity gaming during the state fiscal year ending June 30, 2004. The data is still under review and will be included in the Department's forthcoming annual report which will be printed in October.

Mr. McKee then addressed the Department's use of proceeds rule which was recently challenged and overturned in a Marion County Superior Court. The rule took effect in the winter of 2003 and required organizations to use a predetermined percentage of their gross receipts from charity gaming for charitable purposes in addition to the statutory requirement that all of the organization's net receipts from charity gaming must be used for the organization's charitable purposes. Mr. McKee explained that in the Department's view the rule was necessary because organizations have realized very little profit from their charity gaming operations reducing the effectiveness of charity gaming as a fund raising venture as intended by Indiana law. Mr. McKee testified that most organizations conscientiously follow the rules but bad management and skimming are statewide problems. Mr. McKee indicated that the Department is still discussing its options with the Attorney General with respect to the lawsuit that led to the court ruling overturning the rule.

Attorney Mark Shublak, Ice Miller, testified on behalf of Muncie Novelty Company, a manufacturer of many products used in charity gaming events. Mr. Shublak stated that the regulated community believes that the problems described by Mr. McKee require better policing efforts and not a rule that adds to the regulatory burden of the organizations engaged in charity gaming. Mr. Shublak suggested that it will be difficult for some organizations to comply with the rule because they will have to reduce the amount of prizes awarded at their charity gaming events and that will make the events less attractive to the public.

Horse Racing

The horse racing portion of the agenda was devoted to hearing from the various interested parties on the recent decision of the Indiana Horse Racing Commission (IHRC) concerning the importation of Kentucky thoroughbred simulcast signals to the Indiana satellite facilities in Evansville and Clarksville. Federal law grants the Kentucky Horsemen's Benevolent and Protective Association (KHBPA) the right to object to requests to import the signals from the state of Kentucky. The KHBPA has objected to a plan to import the signal to the Evansville and Clarksville satellite facilities. The IHRC considered a proposal to shut off the signals' transmission to all locations in Indiana, but ruled in favor of maintaining the status quo instead. While the signals are not available in Evansville and Clarksville, they continue to be broadcast to the Indiana race tracks in Anderson and Shelbyville and to the satellite facilities in Indianapolis, Fort Wayne, and Merrillville.

Joseph Koenig, Executive Director of the Indiana Department of Gaming Research (IDGR), explained his Department's report on the potential Indiana gains and Kentucky losses resulting from importing the signals to Evansville and Clarksville. The IDGR's report² was prepared at the request of the IHRC. Mr. Koenig also reviewed the circumstances surrounding the passage of an Ohio statute that barred out-of-state signals unless the signals were available to everyone.

Rick Moore, President of Hoosier Park, urged the members of the General Assembly to refrain from reopening the signal issue and urged them to defer to the expertise of the IHRC. Mr. Moore stated that the betting public in Indiana does not want to lose the ability to wager on the

²The executive summary of the IDGR's report and a set of supplementary tables are available in the Legislative Information Center as Exhibits 1 and 2, respectively.

Kentucky Derby.

Attorney J.D. Lux appeared on behalf of Indiana Downs expressing that track's hope for a negotiated resolution to the controversy and the track's belief that a negotiated resolution is made more likely if the Kentucky signal is banned either administratively or legislatively.

Jerry Walker, President of the Indiana Thoroughbred Owners and Breeders Association, rose to read a letter from Donald Kubovchik, Executive Director of the Indiana Horsemen's Benevolent and Protective Association (IHBPA). Mr. Kubovchik's letter reviewed the disagreement between his members and their counterparts in Kentucky. The letter indicated that the IHBPA supported the proposal to ban the Kentucky signals but that the IHBPA's board of directors has not met since the release of the IDGR's report on the fiscal impact of importing the signals.

Mr. Walker's own testimony included his belief that withholding the Kentucky signals would not be good for the horsemen of either state. Mr. Walker had hoped that the controversy would end with a negotiated resolution fair to everyone.

Joe Gorajec, Executive Director of the IHRC, concluded the testimony on the subject with a review of the IHRC's actions over several months. Mr. Gorajec described the issue as the most complex issue to ever face the IHRC. Mr. Gorajec stated that the IHRC is not happy with the status quo but there is more concern about the effects of a statewide ban of the Kentucky signals. Mr. Gorajec noted that if the Kentucky signals were available statewide in Indiana, fans in Evansville and Clarksville would be pleased and that Indiana Downs and the Indiana horsemen would be helped. On the other hand, the IHRC believes that everyone, including the betting public, will lose if a statewide ban on the Kentucky signals is implemented. Mr. Gorajec suggested that if the IHRC had been confident that a ban would bring a negotiated resolution to the controversy, the IHRC would have taken that course of action.

Representative Crawford adjourned the meeting following Mr. Gorajec's testimony at 3:58 p.m.